UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

CRAIG CUNNINGHAM, Pro-se)
)
Plaintiff)
) CIVIL ACTION NO.:
v.)
)
Kathy McDonald, VIM Holdings, Inc., John/Jane Doe 1-5)

Defendants.

Plaintiff's Amended complaint

1. The Plaintiff in this case is Craig Cunningham, a natural person and was resident of Davidson County at all times relevant to the complaint, and currently has a mailing address of 5543 Edmondson Pike, ste 248, Nashville, TN 37211

2. Upon information and belief, Kathy Mcdonald is a natural person operating from 17993 Cowan, Irvine, CA 92618 and can be served there or via registered agent: Registered Agent Solutions Inc., 1220 S. ST Ste 150, Sacramento, CA 95811.

3. VIM Holdings Inc., is a Delaware Corporation operating in California at 17993 Cowan, Irvine, CA 92618 and can be served via registered agent: Registered Agent Solutions Inc., 1679 Dupont Highway Ste 100, Dover, DE 19901

4. The John/Jane Doe defendants are other managers and executives that are the driving forces behind the illegal telephone calls to the Plaintiff and other related entities that are providing material support to the illegal calls, which shall be made known through the discovery process.

Jurisdiction

5. Jurisdiction of this court arises as the acts happened in this county.

6. Venue in this District is proper in that the defendants transact business here, and the acts and transactions occurred here. Personal jurisdiction is apparent as the defendants are conducting regular calls to solicit people in Nashville to sign up for home security services.

FACTUAL ALLEGATIONS

7. In 2014 and 2015, the Plaintiff received multiple automated phone calls with a pre-recorded message to the Plaintiff's cell phone which informed the Plaintiff that he was eligible for a free alarm system. The Plaintiff then was connected to an agent who stated that they had a promotional offer in the area and were installing alarm systems free, but the systems required a 3 year contract.

8. The caller stated the Alarms were made by GE and the monitoring was done through Monitronics, a frequent defendant in TCPA/telemarketing lawsuits.

9. The Plaintiff was aware of a company at the exact same address conducting similar offers via unsolicited telephone calls, under the name Secure 1 Systems. Kathy McDonald was listed as the owner of that company and were operating from the 17993 Cowan address. They recently closed, changed the name, and re-opened at the 17993 Cowan address with Kathy McDonald again leading the company and their illegal telemarketing efforts.

10. Kathy McDonald as the executive is the driving force behind these illegal telemarketing calls and is directly liable for the illegal efforts made by her

company.

11. The Plaintiff has not given any authorization to be called with a pre-recorded message or automated calls to his cell phone. The calls were not related to any emergency purpose, either.

12. Th pre-recorded message did not list the name, address, or phone number of the entity calling.

13. The calling number was spoofed and when called back just went to a busy signal. This is an attempt to conceal the true name and identity of the parties responsible for the calls.

14. The agents stated that the website for the company was firstguardalarm.com and the Plaintiff found a recent business license listing for Kathy McDonald for VIM Holdings Inc., but also lists the website as firstguardalarm.com and an address of 17993 Cowan, Irvine, CA, 92614, which is the address for the previous Secure 1 Systems under Kathy McDonald and the current VIM Holdings/First Guard under Kathy McDonald.

15. The Defendants violated the Plaintiff's rights under 47 USC 227(b) by placing automated calls with a pre-recorded message to the Plaintiff's cell phone. This entitles the Plaintiff to recover $1,500 per call.

16. The Defendants also violated the Plaintiff's rights under 47 USC 228(c) as codified as 47 CFR 64.1200(d) for placing calls with pre-recorded messages that did not state the name, address, or phone number of the entity placing the calls or on whose behalf the calls were made. This entitles the Plaintiff to an additional $1,500 per call.

CAUSES OF ACTION:

COUNT I

Violations of the Telephone Consumer Protection Act (TCPA)

17. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

18. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing unsolicited and unwelcome telephone calls to the Plaintiff's cell phone. These phone calls also violated the TCPA by having an pre-recorded message that failed to contain the name, address, and phone number for the entity for which the calls are being place as required under the TCPA. These elements of the call violated 47 USC 227 (c) as codified by the FCC's CFR 64.1200(d).

COUNT II

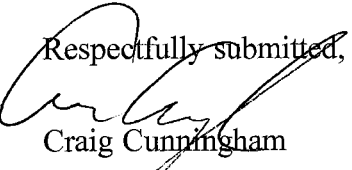**Violations of the Telephone Consumer Protection Act (TCPA)**

19. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

20. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing automated calls with pre-recorded messages to the Plaintiff's Cell phone. These elements of the call violate 47 USC 227 (b)(3)(a)

PRAYER FOR DAMAGES AND RELIEFS

A. WHEREFORE, Plaintiff, Cunningham, respectfully prays and requests that judgment be entered against Defendants

B. Statutory damages of $3000 for each phone call.

C. Pre-judgment interest from the date of the phone calls.

D. Punitive damages for all claims in the amount of $50,000

E. Attorney's fees for bringing this action as incurred; and

F. Costs of bringing this action; and

G. For such other and further relief as the Court may deem just and proper

I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case.

Respectfully submitted,

Craig Cunningham

Plaintiff, Pro-se

Mailing address:

5543 Edmondson Pike, ste 248

Nashville, tn 37211

828-291-7465
February 28th, 2015